

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

MDL No. 2419  
Master Dkt.: 1:13-md-02419-FDS

THIS DOCUMENT RELATES TO:

All Actions

**Stipulation and [Proposed] MDL Order No. 6A**  
September \_\_\_, 2013

**I. TOLLING**

New England Compounding Pharmacy, Inc. (“NECC”); Barry Cadden; Lisa Cadden; Doug Conigliaro; Carla Conigliaro; Gregory Conigliaro; Glenn Chin; Alaunus Pharmaceutical, LLC; Ameridose, LLC; GDC Properties Management, Inc; Medical Sales Management; and Medical Sales Management SW (“Affiliated Defendants”), through their undersigned counsel, stipulate that as to all claims which are currently in MDL #2419, or which will be filed in, or transferred to, MDL #2419, and which are also claims that are subject to a one (1) year Statute of Limitation, or one (1) year Statute of Repose, or, one (1) year laches or estoppel defense, or any other one (1) year State law health care provider suit requirement (the “Tolled Claims”), the time period between September 5, 2013 through November 30, 2013 (the “Tolling Period”) shall not be used in the calculation of any time-related defense(s) as set forth above. This stipulation as to the Tolling Period only applies to the above defined Tolled Claims.

This Court has already entered an order wherein the Affiliated Defendants agreed to waive pre-suit notice requirements. *See* MDL Order #6.

## II. REVISED CASE MANAGEMENT SCHEDULE

MDL Order #6 established case management procedures and a schedule to coordinate the efficient litigation of the cases centralized in *In re New England Compounding Pharmacy, Inc., Products Liability Litigation*, MDL No. 2419 (“MDL 2419”). All provisions in MDL Order #6 remain in effect unless they are obviated or amended by the revised case management schedule below.

The PSC and the Affiliated Defendants hereby stipulate, and the Court hereby enters, the following case management schedule:

<b>Event</b>	<b>New Date / Deadline</b>
Discovery of NECC and the Affiliated Defendants.	Stayed until further order of the court, subject to CMO # 6, reviewable at each status conference.
Fact discovery (a) Unaffiliated Defendants, and non-parties for all purposes, and (b) as to plaintiffs for purposes of determining bellwether cases.	Begins forthwith, subject to the Mediation Order as it may apply as to any participating defendant.
<i>Other than NECC and the Affiliated Defendants</i> , Answers to all complaints directly filed or transferred into the MDL in one year statute states (TN, OH, AL, KY, LA) by August 28, 2013 due. (All answers for cases involving plaintiffs or defendants from TN, OH, AL, KY, LA directly filed or transferred into the MDL after August 28, 2013 will be due 21 days after service).	September 25, 2013
Master Complaint and form Short Form Complaint filed.	November 5, 2013
Deadline to file Short Form Complaint joining the Master Complaint for the previously filed cases and any cases wishing to be in the first bellwether pool	November 29, 2013
<i>Other than NECC and the Affiliated Defendants</i> , Deadline to file Master	December 2, 2013

Answers and/or Generic Motions to Dismiss (case specific motions at a later date if case is selected for bellwether trial)	
Deadline for Completion of Plaintiff Profile Form for cases wishing to be in the first bellwether pool	January 3, 2014
Selection of six (6) bellwether cases finalized to pursue case specific discovery.	January 17, 2014
<i>Other than NECC and the Affiliated Defendants</i> , Common fact discovery closes (excluding bellwethers).	Completed by February 14, 2014
<i>Other than NECC and the Affiliated Defendants</i> , All common expert reports due.	February 28, 2014
<i>Other than NECC and the Affiliated Defendants</i> , All common responsive expert reports due.	March 31, 2014
<i>Other than NECC and the Affiliated Defendants</i> , All common rebuttal expert reports due.	April 30, 2014
Case specific bellwether discovery closes.	April 30, 2014
Narrowing of bellwether cases to 2 cases for trial	May 16, 2014
<i>Other than NECC and the Affiliated Defendants</i> , All common expert deposition to be completed.	May 30, 2014
<i>Other than NECC and the Affiliated Defendants</i> , Case specific expert reports due. Simultaneous disclosure by plaintiff and defendant.	May 30, 2014
<i>Other than NECC and the Affiliated Defendants</i> , Case specific expert depositions completed.	June 30, 2014
<i>Other than NECC and the Affiliated Defendants</i> , Summary judgment and <i>Daubert</i> briefing	Completed by July 31, 2014

Trial(s)	September 2014
----------	----------------

STIPULATED BY:

**/s/ Thomas M. Sobol**

Thomas M. Sobol  
Kristen Johnson Parker  
HAGENS BERMAN SOBOL SHAPIRO LLP  
55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142  
Telephone: (617) 482-3700  
Facsimile: (617) 482-3003  
tom@hbsslaw.com  
kristenjp@hbsslaw.com

*Plaintiffs' Lead Counsel, on behalf of  
The Plaintiffs' Steering Committee*

**/s/ Michael R. Gottfried**

Michael R. Gottfried, Esq.  
DUANE MORRIS LLLP  
100 High Street, Suite 2400  
Boston, MA 02110-1724  
(857) 488-4230  
mrgottfried@duanemorris.com

*Counsel to Paul D. Moore, Chapter 11  
Trustee for New England Compounding  
Pharmacy, Inc.*

**/s/ Frederick H. Fern, Esq.**

Frederick H. Fern, Esq.  
Harris BEACH PLLC  
100 Wall Street  
New York, NY  
(212) 687-0100  
hbnecc@harrisbeach.com

*Counsel for Chapter 11 Trustee of the Estate  
of NECC and NECC's Liaison  
Counsel*

**/s/ William J. Dailey, Jr.**

William J. Dailey, Jr., Esq.  
Robert H. Gaynor, Esq.  
SLOANE & WALSH, LLP  
Three Center Plaza  
Boston, MA 02108  
(617) 523-6010  
wdaileyjr@sloanewalsh.com  
rgaynor@sloanewalsh.com

*Counsel for Individual Defendants Barry  
Cadden, Lisa Conigliaro-Cadden, Doug  
Conigliaro, Carla Conigliaro, Greg  
Conigliaro, and Glenn Chin*

**/s/ Ryan Ciporkin**

Ryan Ciporkin, Esq.  
LAWSON & WEITZEN, LLP  
88 Black Falcon Avenue  
Suite 345  
Boston, MA 02210  
(617) 439-4990  
rcoporkin@lawson-weitzen.com

*Counsel for Alaunus Pharmaceutical, LLC*

**/s/ Matthew P. Moriarty**

Matthew P. Moriarty, Esq.  
TUCKER ELLIS  
950 Main Avenue  
Suite 1100  
Cleveland, OH 44113  
(216) 696-2276  
matthew.moriarty@tuckerellis.com

*Counsel for Ameridose, LLC*

**/s/ Joseph P. Thomas**

Joseph P. Thomas, Esq.  
ULMER & BERNE, LLP  
Ulmer & Berne, LLP  
600 Vine Street, Suite 2800  
Cincinnati, OH 45202

(513) 698-5000  
jthomas@ulmer.com

*Counsel for GDC Properties, LLC*

**/s/ Dan Rabinovitz**

Dan Rabinovitz, Esq.  
MICHAELS, WARD & RABINOVITZ, LLP  
One Beacon Street, 2<sup>nd</sup> Floor  
Boston, MA 02108  
(617) 350-4040  
dmr@michaelsward.com

*Counsel for Medical Sales Management, Inc.  
and Medical Sales Management SW, Inc.*

IT IS SO ORDERED.

---

The Honorable F. Dennis Saylor IV  
United States District Judge

Dated: September \_\_\_, 2013

**CERTIFICATE OF SERVICE**

I, Thomas M. Sobol, hereby certify that I caused a copy of the foregoing *Stipulation and Proposed MDL Order No. 6A* to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: September 16, 2013

/s/Thomas M. Sobol  
Thomas M. Sobol (BBO # 471770)